

STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH

FILE COPY

AUTHORIZATION TO DISCHARGE UNDER THE
UTAH POLLUTANT DISCHARGE ELIMINATION SYSTEM
(UPDES)

In compliance with provisions of the *Utah Water Quality Act, Title 19, Chapter 5, Utah Code Annotated ("UCA") 1953, as amended* (the "Act"),

**CONSOLIDATION COAL COMPANY, EMERY UNDERGROUND MINE AND
SURFACE FACILITIES**

is hereby authorized to discharge from its facility located in Emery County, Utah Township 22 South, Range 6 East, 4 miles south of Emery, Utah, with the outfalls located at:

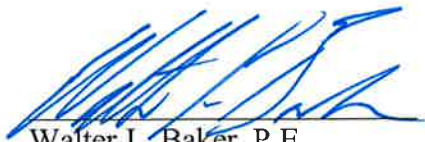
- 001, latitude 38° 51' 38" and longitude 111° 16' 09"
- 002, latitude 38° 51' 34" and longitude 111° 15' 24"
- 003, latitude 38° 52' 33" and longitude 111° 16' 53"
- 004, latitude 38° 52' 48" and longitude 111° 16' 51"
- 005, latitude 38° 51' 34" and longitude 111° 15' 23"
- 006, latitude 38° 51' 32" and longitude 111° 15' 30"
- 007, latitude 38° 51' 45" and longitude 111° 15' 45"
- 008, latitude 38° 51' 45" and longitude 111° 16' 15"
- 009, latitude 38° 52' 30" and longitude 111° 14' 08"

to receiving waters named **Quitchupah Creek** in accordance with discharge point, effluent limitations, monitoring requirements and other conditions set forth herein.

This permit shall become effective on July 1, 2012.

This permit and the authorization to discharge shall expire at midnight, June 30, 2017.

Signed this 19th day of June, 2012



Walter L. Baker, P.E.
Director
Utah Division of Water Quality

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I. DISCHARGE OUTFALLS, EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

A. Description of Discharge Points. The authorization to discharge provided under this permit is limited to those outfalls identified below. Discharges at any location and/or that are not authorized under a UPDES permit are in violation of the *Act* and may be subject to penalties under the *Act*. Knowingly discharging from an unauthorized location or failing to report an unauthorized discharge may be subject to criminal penalties as provided under the *Act*.

1. Storm Water Discharges. Storm water and other discharges identified in Part II.A. (except Part II.A.2), must be identified in the storm water pollution prevention plan (Part II.B.), in accordance with Part II.B.2.b.1.
2. All Other Discharges (including storm water from active mining areas). All other discharges other than those identified in Part I.A.1. (above) are authorization to discharge to the discharge outfalls and locations specifically designated below.

Outfall Numbers, Description, & Longitudinal Coordinates

<u>Outfall Number</u>	<u>Location of Discharge Point(s)</u>
001	Discharge of mine water at latitude 38° 51" 38' and longitude 111° 16" 09', from Consolidation Coal Pond #1.
002	Discharge of storm water at latitude 38° 51" 34' and longitude 111° 15" 24', from Consolidation Coal Pond #2.
003	Discharge of mine water at latitude 38° 52" 33' and longitude 111° 16" 53', from Consolidation Coal Pond #6.
004	Discharge of mine water at latitude 38° 52" 48' and longitude 111° 16" 51', from Consolidation Coal Pond named, Farmers Pond.
005	Discharge of storm water at latitude 38° 51" 34' and longitude 111° 15" 23', from Consolidation Coal Pond #3.
006	Discharge of storm water at latitude 38° 51" 32' and longitude 111° 15" 30', from Consolidation Coal Pond #8.
007	Discharge of storm water at latitude 38° 51" 45' and longitude 111° 15" 45', from Consolidation Coal Pond #5.
008	Slurry emergency discharge at latitude 38° 51" 45' and longitude 111° 16" 15', from Consolidation Coal Pond #6.
009	Discharge of storm water at latitude 38° 52" 30' and longitude 111° 14" 08', from Consolidation Coal Pond #9.

B. Narrative Standard. It shall be unlawful, and a violation of this permit, for the permittee to discharge or place any waste or other substance in such a way as will be or may become offensive such as unnatural deposits, floating debris, oil, scum or other nuisances such as color, odor or taste, or cause conditions which produce undesirable aquatic life or which produce objectionable tastes in edible aquatic organisms; or result in concentrations or combinations of substances which produce undesirable physiological responses in desirable resident fish, or other desirable aquatic life, or undesirable human

health effects, as determined by bioassay or other tests performed in accordance with standard procedures.

C. Specific Limitations and Self-monitoring Requirements.

1. Effective immediately, and lasting through the life of this permit, there shall be no acute toxicity in Outfalls 001, 003, 004 and 008 as defined in Parts VI.30 and I.C.7, and determined by test procedures described in Part I.C.7 of this permit.
2. Effective immediately the permittee is authorized to discharge from Outfalls 001 to 009. Such discharges shall be limited and monitored by the permittee as specified below:

Parameter	Effluent Limitations a/b/				
	Max Monthly Avg.	Max Weekly Avg.	Daily Min	Daily Max	Annual Max
Flow, MGD	1.5				
Total Suspended Solids, mg/L	25	35		70	
Total Dissolved Solids, mg/L	4,766				
Sulfate, mg/L	3,366				
Iron, mg/L				1.4	
Oil & Grease, mg/L				10	
pH, SU			6.5	9.0	

a/ See definitions Part VI for definition of terms.

b/ There shall be no visible sheen or floating solids or visible foam in other than trace amounts. There shall be no discharge of sanitary wastes.

Self-Monitoring and Reporting Requirements a/			
Parameter	Frequency	Sample Type	Units
Total Flow	Weekly	Measured	MGD
TSS	Weekly	Grab/Composite	mg/L
TDS	Weekly	Grab/Composite	mg/L
TDS b/	Monthly	Calculated	tons
Sulfate	Weekly	Grab/Composite	mg/L
Iron	Weekly	Grab/Composite	mg/L
Oil & Grease	Weekly	Visual	Yes/No

Oil & Grease <u>c/</u>	Monthly	Grab	mg/L
pH	Weekly	Grab	SU
WET, Acute Biomonitoring <u>d/</u>	Annually <u>e/</u>	Composite	Pass/Fail

a/ See definitions Part VI for definition of terms.

b/ Cumulative totals for this parameter shall be reported on the monthly Discharge Monitoring Reports.

c/ Required only if sheen is observed.

d/ WET monitoring required only at Outfalls 001, 003, 004, 008 which discharge mine water.

e/ Monitoring frequency will be annually while mine is idle and quarterly at commencement of mining activities.

3. Samples taken in compliance with the monitoring requirements specified above shall be taken at the following location: at all of the Outfalls 001 to 009, prior to mixing with receiving waters.
4. Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period less than or equal to the 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) at all surface runoff pond (outfalls) may comply with the following limit instead of the total suspended solids limitations contained in *Part I.C.1 & 2*:

Effluent Characteristics
Settleable Solids

Daily Maximum
0.5 ml/L

In addition to the monitoring requirements specified under *Part I.C.1 & 2*, all effluent samples collected during storm water discharge events shall also be analyzed for settleable solids. Such samples may be either grab or composite samples.

5. Any overflow, increase in volume of a discharge or discharge from a bypass system caused by precipitation within any 24-hour period greater than 10-year, 24-hour precipitation event (or snowmelt of equivalent volume) at all surface runoff pond outfalls may comply with the following limits instead of the otherwise applicable limits:

The pH shall not be less than 6.5 standard units nor greater than 9.0 standard units. However, as stated under *Part I.C.3*, all effluent samples collected at all surface

runoff pond outfalls during storm water discharge events shall be analyzed for settleable solids and parameters identified under *Part I.C.1 & 2*.

6. The operator shall have the burden of proof that the discharge or increase in discharge was caused by the applicable precipitation event described in *Parts I.C.3. and C.4*. The alternate limits in *Parts I.C.3. and C.4*. shall not apply to treatment systems that treat underground mine water only.
7. Within one year from the effective date of this permit, Consol shall complete and submit to DWQ a TDS evaluation and demonstration report in accordance with the Colorado River Basin Salinity Control Forum Policies as outlined in the "2011 Review, Water Quality Standards for Salinity, Colorado River System, Appendix A."
8. Acute Whole Effluent Toxicity (WET) Testing.

- a. *Whole Effluent Testing – Acute Toxicity.* Beginning on the effective date of this permit, the permittee shall conduct annual acute static replacement toxicity tests on a composite sample from the end of pipe (EOP) of the final effluent from Outfalls 001, 003, 004 and 008 while the mine is not operating. Upon commencement of mining activities, the monitoring frequency will be quarterly.

The monitoring frequency for acute tests shall be annually/quarterly unless a sample is found to be acutely toxic during a routine test. If that occurs, the monitoring frequency shall become weekly (See *Part I.8.b, Accelerated Testing*). Samples shall be collected on a two day progression; i.e., if the first sample is on a Monday, during the next sampling period, the sampling shall begin on a Wednesday, etc.

The replacement static acute toxicity tests shall be conducted in general accordance with the procedures set out in the latest revision of *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, 5th Edition, (EPA 821/R/02/012), October 2002*, as per *40 CFR 136.3(a) TABLE 1A-LIST OF APPROVED BIOLOGICAL METHODS*. The permittee shall conduct the 48-hour static replacement toxicity test using Daphnia magna and the acute 96-hour static replacement toxicity test using Pimephales promelas (fathead minnow). A CO₂ atmosphere may be used (in conjunction with an unmodified test) in order to account for artificial pH drift.

Acute toxicity occurs when 50 percent or more mortality is observed for either species at any effluent concentration (LC₅₀). Mortality in the control must

simultaneously be 10 percent or less for the results to be considered valid. If more than 10 percent control mortality occurs, the test shall be repeated until satisfactory control mortality is achieved.

Annual/quarterly test results shall be reported along with the Discharge Monitoring Report (DMR) submitted for the end of the reporting calendar quarter e.g., biomonitoring results for the calendar quarter ending March 31 shall be reported with the DMR due April 28, with the remaining biomonitoring reports submitted with DMRs due each July 28, October 28, and January 28). All test results shall be reported along with the DMR submitted for that reporting period. The format for the report shall be consistent with the latest revision of the *Region VIII Guidance for Acute Whole Effluent Reporting* and shall include all chemical and physical data as specified.

If the results for a minimum of ten consecutive tests for each test species indicate no acute toxicity, the permittee may request a reduction in testing frequency and/or reduction of test species. The Executive Secretary may approve, partially approve, or deny the request based on results and other available information. If approval is given, the modification will take place without a public notice.

- a. *Accelerated Testing.* When acute toxicity is indicated during routine biomonitoring as specified in this permit, the permittee shall notify the Executive Secretary in writing within five (5) days after becoming aware of the test result. The permittee shall perform an accelerated schedule of biomonitoring to establish whether a pattern of toxicity exists. Accelerated testing will begin within seven (7) days after the permittee becomes aware of the test result. Accelerated testing shall be conducted as specified under *Part I.C.3.c., Pattern of Toxicity*. If the accelerated testing demonstrates no pattern of toxicity, routine monitoring shall be resumed.
- b. *Pattern of Toxicity.* A pattern of toxicity is defined by the results of a series of up to five (5) biomonitoring tests pursuant to the accelerated testing requirements using 100 percent effluent on the single species found to be more sensitive, once every week for up to five (5) consecutive weeks.

If two (2) consecutive tests (not including the scheduled quarterly or monthly test which triggered the search for a pattern of toxicity) do not result in acute toxicity, no further accelerated testing will be required and no pattern of toxicity will be found to exist. The permittee will provide written verification

to the Executive Secretary within five (5) days, and resume routine monitoring.

A pattern of toxicity is established if one of the following occurs:

- (1) If two (2) consecutive test results (not including the scheduled quarterly or monthly test, which triggered the search for a pattern of toxicity) indicate acute toxicity, this constitutes an established pattern of toxicity.
- (2) If consecutive tests continue to yield differing results each time, the permittee will be required to conduct up to a maximum of five (5) acute tests (not including the scheduled quarterly or monthly test which triggered the search for a pattern of toxicity). If three out of five test results indicate acute toxicity, this will constitute an established pattern of toxicity.

c. *Preliminary Toxicity Investigation.*

- (1) When a pattern of toxicity is detected the permittee will notify the Executive Secretary in writing within five (5) days and begin an evaluation of the possible causes of the toxicity. The permittee will have fifteen (15) working days from demonstration of the pattern to complete a Preliminary Toxicity Investigation (PTI) and submit a written report of the results to the Executive Secretary. The PTI may include, but is not limited to, additional chemical and biological monitoring, examination of pretreatment program records, examination of discharge monitoring reports, a thorough review of the testing protocol, evaluation of treatment processes and chemical use, inspection of material storage and transfer areas to determine if a spill may have occurred, and similar procedures.
- (2) If the PTI identifies a probable toxicant and/or a probable source of toxicity the permittee shall submit, as part of its final results written notification of that effect to the Executive Secretary. Within thirty (30) days of completing the PTI the permittee shall submit for approval a control program to control effluent toxicity and shall proceed to implement such a plan within seven (7) days following approval. The control program, as submitted to or revised by the Executive Secretary, may be incorporated into the permit.
- (3) If no probable explanation for toxicity is identified in the PTI, the permittee shall notify the Executive Secretary as part of its final report,

along with a schedule for conducting a Phase I Toxicity Reduction Evaluation (TRE) (See *Part I.C.3.e., Toxicity Reduction Evaluation*).

- (4) If toxicity spontaneously disappears during the PTI, the permittee shall submit written notification to that effect to the Executive Secretary as part of the reporting requirements of paragraph a. of this section.
- d. *Toxicity Reduction Evaluation (TRE)*. If toxicity is detected during the life of this permit and it is determined by the Executive Secretary that a TRE is necessary, the permittee shall be so notified and shall initiate a TRE immediately thereafter. The purpose of the TRE will be to establish the cause of toxicity, locate the source(s) of the toxicity, and control or provide treatment for the toxicity.

A TRE may include but is not limited to one, all, or a combination of the following:

- (1) Phase I – Toxicity Characterization
- (2) Phase II – Toxicity Identification Procedures
- (3) Phase III – Toxicity Control Procedures
- (4) Any other appropriate procedures for toxicity source elimination and control.

If the TRE establishes that the toxicity cannot be immediately eliminated, the permittee shall submit a proposed compliance plan to the Executive Secretary. The plan shall include the proposed approach to control toxicity and a proposed compliance schedule for achieving control. If the approach and schedule are acceptable to the Executive Secretary, this permit may be reopened and modified.

If the TRE shows that the toxicity is caused by a toxicant(s) that may be controlled with specific numerical limitations, the permittee may:

- (a) Submit an alternative control program for compliance with the numerical requirements.
- (b) If necessary, provide a modified biomonitoring protocol, which compensates for the pollutant(s) being controlled numerically.

If acceptable to the Executive Secretary, this permit may be reopened and modified to incorporate any additional numerical limitations, a modified compliance schedule if judged necessary by the Executive Secretary, and/or a modified biomonitoring protocol.

Failure to conduct an adequate TRE, or failure to submit a plan or program as described above, or the submittal of a plan or program judged inadequate by the Executive Secretary, shall be considered a violation of this permit.

- D. Reporting of Discharge Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on August 28, 2012. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports including whole effluent toxicity (WET) test reports and the annual Project Operating Report required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part VII.G)*, and submitted to the Division of Water Quality at the following address:

Department of Environmental Quality, Division of Water Quality,
195 North 1950 West
PO Box 144870, Salt Lake City, Utah 84114-4870

II. STORM WATER DISCHARGE REQUIREMENTS

- A. Discharges Covered Under This Section The requirements listed under this section (*Part II*) shall apply to storm water discharges from coal mining-related areas (SIC Major Group 12) if they are not subject to effluent limitations guidelines under *40 CFR Part 434*. Storm water discharges from the following portions of Consolidation Coal are covered under this section: haul roads (nonpublic roads on which coal or coal refuse is conveyed), access roads (nonpublic roads providing light vehicular traffic within the facility property and to public roadways), railroad spurs, sidings, and internal haulage lines (rail lines used for hauling coal within the facility property and to offsite commercial railroad lines or loading areas), conveyor belts, chutes, and aerial tramway haulage areas (areas under and around coal or refuse conveyor areas, including transfer stations), equipment storage and maintenance yards, coal handling buildings and structures, and inactive coal mines and related areas (abandoned and other inactive mines, refuse disposal sites and other mining-related areas on private lands).
1. The following non-storm water discharges may be authorized by this permit (under *Part II*, Storm Water Discharge Requirements) to be discharged with storm water discharges provided the non-storm water component of the discharge is in compliance with *Part II.B.2.c* (Measures and Controls for Non Storm Water Discharges); discharges from fire fighting activities; fire hydrant flushing; potable water sources including waterline flushing; irrigation drainage; lawn watering; routine external building wash down which does not use detergents or other compounds; pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used; air conditioning condensate; springs; uncontaminated ground water; and foundation or footing drains where flows are not contaminated with process materials such as solvents.
 2. Discharges that are not authorized under this Part (Storm Water Discharge Requirements) of this permit are: Point sources of pollutant seeps or underground drainage from inactive coal mines and refuse areas that do not occur as storm water discharges in response to precipitation events are excluded from coverage by the storm water section of this permit. In addition, floor drains from maintenance buildings and other similar drains in mining and preparation plant areas must be discharged at locations, limitations, and conditions in *Part I*.
- B. Storm Water Pollution Prevention Plan. A storm water pollution prevention plan shall be developed (or, if already developed, shall be revised and continue to be maintained) by the permittee covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices and in accordance with the factors outlined in *40 CFR 125.3(d)(2)* or *(3)* as appropriate. The DWQ recommends

that plans be signed by a State registered Professional Engineer (P.E.), particularly where plans are complex, treatment systems are used, and risks to storm water discharges are significant. The plan shall identify potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices that are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. The permittee must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.

1. Storm Water Pollution Prevention Plan Requirements. Most of the active coal mining-related areas, described in *Part II.A.* (above), are subject to sediment and erosion control regulations of the U.S. Office of Surface Mining (OSM) that enforces the *Surface Mining Control and Reclamation Act (SMCRA)*. OSM has granted authority to the Utah Division of Oil Gas and Mining (DOGM) to implement *SMCRA* through State *SMCRA* regulations. All *SMCRA* requirements regarding control of erosion, siltation and other pollutants resulting from storm water runoff, including road dust resulting from erosion, shall be primary requirements of the pollution prevention plan and shall be included in the contents of the plan directly, or by reference. Where determined to be appropriate for protection of water quality, additional sedimentation and erosion controls may be warranted.
2. Contents of Plan. The plan shall include at a minimum, the following items:
 - a. Pollution Prevention Team. The plan shall identify a specific individual or individuals within the facility organization as members of a storm water Pollution Prevention Team that are responsible for developing the storm water pollution prevention plan and assisting the facility manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.
 - b. Description of Potential Pollutant Sources. The plan shall provide a description of potential sources that may reasonably be expected to add significant amounts of pollutants to storm water discharges or that may result in the discharge of pollutants during dry weather from storm water discharge points (not identified in *Part I.A.*) draining the facility. Each plan shall identify all activities and significant materials that may potentially be significant pollutant sources. Each plan shall include, at a minimum:

(1) Drainage.

- (a) A site map, such as a drainage map required for *SMCRA* permit applications, that indicate drainage areas and storm water outfalls. These shall include but not be limited to the following:
- i Drainage direction and discharge points from all applicable mining-related areas described in *Part II.A*, including culvert and sump discharges from roads and rail beds and also from equipment and maintenance areas subject to storm runoff of fuel, lubricants and other potentially harmful liquids.
 - ii Location of each existing erosion and sedimentation control structure or other control measures for reducing pollutants in storm water runoff.
 - iii Receiving streams or other surface water bodies.
 - iv Locations exposed to precipitation that contain acidic spoil, refuse or unreclaimed disturbed areas.
 - v Locations where major spills or leaks of toxic or hazardous pollutants have occurred.
 - vi Locations where liquid storage tanks containing potential pollutants, such as caustics, hydraulic fluids and lubricants, are exposed to precipitation.
 - vii Locations where fueling stations, vehicle and equipment maintenance areas are exposed to precipitation.
 - viii Locations of outfalls and the types of discharges contained in the drainage areas of the outfalls.
- (b) For each area of the facility that generates storm water discharges associated with the mining-related activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants that are likely to be present in storm water discharges associated with the activity. Factors to consider include the toxicity of the pollutant; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

- (2) Inventory of Exposed Materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in a manner to allow exposure to storm water for 3 years prior to the latest permit renewal to the present; method and location of onsite storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of 3 years prior to the latest permit renewal and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.
 - (3) Spills and Leaks. A list of significant spills and leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of 3 years prior to the latest permit renewal. Such list shall be updated as appropriate during the term of the permit.
 - (4) Sampling Data. A summary of any existing discharge sampling data describing pollutants in storm water discharges from the portions of the facility covered by this permit, including a summary of any sampling data collected during the term of this permit.
 - (5) Risk Identification and Summary of Potential Pollutant Sources. A narrative description of the potential pollutant sources from the following activities: truck traffic on haul roads and resulting generation of sediment subject to runoff and dust generation; fuel or other liquid storage; pressure lines containing slurry, hydraulic fluid or other potential harmful liquids; and loading or temporary storage of acidic refuse or spoil. Specific potential pollutants shall be identified, where known.
- c. Measures and Controls. The plan shall include the development of a description of storm water management controls appropriate for the facility and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls.
- (1) Good Housekeeping. Good housekeeping requires the maintenance of areas that may contribute pollutants to storm water discharges in a clean, orderly manner. These would be practices that would minimize the generation of pollutants at the source or before it would be necessary to employ sediment

ponds or other control measures at the discharge outlets. Where applicable, such measures or other equivalent measures would include the following: sweepers and covered storage to minimize dust generation and storm runoff; conservation of vegetation where possible to minimize erosion; watering of haul roads to minimize dust generation; collection, removal, and proper disposal of waste oils and other fluids resulting from vehicle and equipment maintenance; or other equivalent measures.

- (2) Preventive Maintenance. A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems. Where applicable, such measures would include the following: removal and proper disposal of settled solids in catch basins to allow sufficient retention capacity; periodic replacement of siltation control measures subject to deterioration such as straw bales; inspections of storage tanks and pressure lines for fuels, lubricants, hydraulic fluid or slurry to prevent leaks due to deterioration or faulty connections; or other equivalent measures.
- (3) Spill Prevention and Response Procedures. Areas where potential spills that can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.
- (4) Inspections. In addition to or as part of the comprehensive site evaluation required under *Part II.B.2.d* of this section, qualified facility personnel shall be identified to inspect designated areas of the facility at appropriate intervals specified in the plan. The following shall be included in the plan:
 - (a) Active Mining-Related Areas and Those Inactive Areas Under SMCRA Bond Authority. The plan shall require quarterly inspections by the facility personnel for areas of the facility covered by pollution prevention plan requirements. This inspection interval corresponds with the quarterly inspections for the entire facility required to be provided by *SMCRA* authority inspectors for all mining-related areas under *SMCRA* authority,

including sediment and erosion control measures. Inspections by the facility representative may be done at the same time as the mandatory inspections performed by *SMCRA* inspectors. Records of inspections of the *SMCRA* authority facility representative shall be maintained.

- (b) Inactive Mining-Related Areas Not Under *SMCRA* Bond. The plan shall require annual inspections by the facility representative except in situations referred to in *Part II.B.2.d.(4)*. below.
- (c) Inspection Records. The plan shall require that inspection records of the facility representative and those of the *SMCRA* authority inspector shall be maintained. A set of tracking or follow-up procedures shall be used to ensure that appropriate actions are taken in response to the inspections.
- (5) Employee Training. Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. The pollution prevention plan shall identify periodic dates for such training.
- (6) Recordkeeping and Internal Reporting Procedures. A description of incidents (such as spills, or other discharges) along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.
- (7) Non-storm Water Discharge.
 - (a) Certification. The plan shall include a certification that the discharge has been tested or evaluated for the presence of non-storm water discharges such as drainage from underground portions of inactive mines or floor drains from maintenance or coal handling buildings. The certification shall include the identification of potential significant sources of non-storm water discharges at the site, a description of the results of any test and/or evaluation, a description of the evaluation criteria or testing method used, the date of any testing and/or evaluation, and the onsite drainage points that were directly observed during the test. Certifications shall be signed in accordance with *Part V.G.* of this permit.

- (b) Exceptions. Except for flows from fire fighting activities, authorized sources of non-storm water listed in *Part II.A.1.* and *Part I.A.* of this permit that are combined with storm water discharges associated with industrial activity must be identified in the plan. The plan shall identify and ensure the implementation of appropriate pollution prevention measures for the non-storm water component(s) of the discharge.
 - (c) Failure to Certify. If Consolidation Coal is unable to provide the certification required (testing or other evaluation for non-storm water discharges) must notify the *Executive Secretary* by June 1, 2007. If the failure to certify is caused by the inability to perform adequate tests or evaluations, such notification shall describe: the procedure of any test conducted for the presence of non-storm water discharges; the results of such test or other relevant observations; potential sources of non-storm water to the storm discharge lines; and why adequate tests for such storm discharge lines were not feasible. Non-storm water discharges to waters of the State that are not authorized by a *UPDES* permit are unlawful, and must be terminated.
- (8) Sediment and Erosion Control. The plan shall identify areas that, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion and reduce sediment concentrations in storm water discharges. As indicated in paragraph 3. above, *SMCRA* requirements regarding sediment and erosion control measures are primary requirements of the pollution prevention plan for mining-related areas subject to *SMCRA* authority. The following sediment and erosion control measures or other equivalent measures, should be included in the plan where reasonable and appropriate for all areas subject to storm water runoff:
- (a) Stabilization Measures. Interim and permanent stabilization measures to minimize erosion and lessen amount of structural sediment control measures needed, including: mature vegetation preservation; temporary seeding; permanent seeding and planting; temporary mulching, matting, and netting; sod stabilization; vegetative buffer strips; temporary chemical mulch, soil binders, and soil palliatives; nonacidic roadsurfacing material; and protective trees.
 - (b) Structural Measures. Structural measures to lessen erosion and reduce sediment discharges, including: silt fences; earth dikes; straw dikes; gradient terraces; drainage swales; sediment traps; pipe slope drains; porous rock check dams; sedimentation ponds; riprap channel protection;

capping of contaminated sources; and physical/chemical treatment of storm water.

- (9) Management of Flow. The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (other than those as sediment and erosion control measures listed above) used to manage storm water runoff in a manner that reduces pollutants in storm water runoff from the site. The plan shall provide that the measures, which the permittee determines to be reasonable and appropriate, shall be implemented and maintained. Appropriate measures may include: discharge diversions; drainage/storm water conveyances; runoff dispersion; sediment control and collection; vegetation/soil stabilization; capping of contaminated sources; treatment; or other equivalent measures.
- d. Comprehensive Site Compliance Evaluation. Qualified personnel shall conduct site compliance evaluations at intervals specified in the plan, but in no case less than once a year. Such evaluations shall provide:
- (1) Areas contributing to a storm water discharge associated with coal mining-related areas shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. These areas include haul and access roads; railroad spurs, sidings, and internal haulage lines; conveyor belts, chutes and aerial tramways; equipment storage and maintenance yards; coal handling buildings and structures; and inactive mines and related areas. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures, as indicated in *Part II.B.2.c.(8)a* and *II.B.2.c.(8)b* and where identified in the plan, shall be observed to ensure that they are operating correctly. A visual evaluation of any equipment needed to implement the plan, such as spill response equipment, shall be made.
- (2) Based on the results of the evaluation, the description of potential pollutant sources identified in the plan, in accordance with *Part II.B.2.b* of this section, and pollution prevention measures and controls identified in the plan, in accordance with *Part II.B.2.c* of this section, shall be revised as appropriate within 2 weeks of such evaluation and shall provide for implementation of any changes to the plan in a timely manner. For inactive mines, such revisions may be extended to a maximum of 12 weeks after the evaluation.

- (3) A report summarizing the scope of the evaluation, personnel making the evaluation, the date(s) of the evaluation, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with *Part II.B.2.c(2)* above shall be made and retained as part of the storm water pollution prevention plan for at least 3 years after the date of the evaluation. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in accordance with *Part V.G. (Signatory Requirements)* of this permit.
- (4) Where compliance evaluation schedules overlap with inspections required under *Part II.B.2.c(4)*, the compliance evaluation may be conducted in place of one such inspection. Where annual site compliance evaluations are shown in the plan to be impractical for inactive mining sites due to the remote location and inaccessibility of the site, site inspections required under this part shall be conducted at appropriate intervals specified in the plan, but, in no case less than once in 3 years.

3. Monitoring and Reporting Requirements.

- a. Visual Examination of Storm Water Quality. Coal mining-related facilities shall perform and document a visual examination of a representative storm water discharge at the following frequencies: semi-annually for inactive areas under *SMCRA* bond, and active areas under *SMCRA*; visual examinations are not required at inactive areas not under *SMCRA* bond.
 - (1) Visual Monitoring Periods. Semi-annual examinations must be done once for each representative discharge (see paragraph (4) below), January through June; and July through December.
 - (2) Sample and Data Collection. Examinations shall be made of samples collected within the first 60 minutes (or as soon thereafter as practical, but not to exceed two hours) of when the runoff or snowmelt begins discharging. The examinations shall document observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution. The examination must be conducted in a well lit area. No analytical tests are required to be performed on the samples. It is intended that all such samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1

inch rainfall) storm event. Where practicable, the same individual will carry out the collection and examination of discharges for the life of the permit.

- (3) Visual Storm Water Discharge Examination Reports. Visual examination reports must be maintained onsite in the pollution prevention plan. The report shall include the examination date and time, examination personnel, the nature of the discharge (i.e., runoff or snow melt), visual quality of the storm water discharge (including observations of color, odor, clarity, floating solids, settled solids, suspended solids, foam, oil sheen, and other obvious indicators of storm water pollution), and probable sources of any observed storm water contamination.
- (4) Representative Discharge. Where there are two or more outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, it is reasonable to believe the discharges have substantially identical effluents, the permittee may collect a sample of effluent of one of such outfalls and report that the examination data also applies to the substantially identical outfalls provided that the permittee includes in the storm water pollution prevention plan a description of the location of the outfalls and explanation in detail why the outfalls are expected to discharge substantially identical effluents. In addition, for each outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area [e.g., low (under 40 percent), medium (40 to 65 percent), or high (above 65 percent)] shall be provided in the plan.
- (5) Adverse Conditions. When a discharger is unable to collect samples over the course of the visual examination period as a result of adverse climatic conditions, the discharger must document the reason for not performing the visual examination and retain this documentation onsite with the records of the visual examination. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricanes, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.).

- (6) Inactive and Unstaffed Site. When a discharger is unable to conduct visual storm water examinations at an inactive and unstaffed site, the operator of the facility may exercise a waiver of the monitoring requirement as long as the facility remains inactive and unstaffed. The facility must maintain a certification with the pollution prevention plan stating that the site is inactive and unstaffed so that performing visual examinations during a qualifying event is not feasible.

III. MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under *Part I* shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to the use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under *Utah Administrative Code ("UAC") R317-2-10*, unless other test procedures have been specified in this permit.
- C. Penalties for Tampering. The *Act* provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- D. Reporting of Monitoring Results. Monitoring results obtained during the previous month shall be summarized for each month and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), post-marked no later than the 28th day of the month following the completed reporting period. The first report is due on August 28, 2012. If no discharge occurs during the reporting period, "no discharge" shall be reported. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the requirements of *Signatory Requirements (see Part IV.G)*, and submitted to the Director, Division of Water Quality at the following address:

original to: Department of Environmental Quality
Division of Water Quality
195 North 1950 West
PO Box 144870
Salt Lake City, Utah 84114-4870

- E. Compliance Schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in an Compliance Schedule of this permit shall be submitted no later than 14 days following each schedule date.
- F. Additional Monitoring by the Permittee. If the permittee monitors any parameter more frequently than required by this permit, using test procedures approved under *UAC R317-2-10* or as otherwise specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted

in the DMR. Such increased frequency shall also be indicated. Only those parameters required by the permit need to be reported.

G. Records Contents. Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) and time(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and,
6. The results of such analyses.

H. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. This period may be extended by request of the Executive Secretary at any time. A copy of this UPDES permit must be maintained on site during the duration of activity at the permitted location.

I. Twenty-Four Hour Notice of Noncompliance Reporting.

1. The permittee shall (orally) report any noncompliance which may seriously endanger health or environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of circumstances. The report shall be made to the Division of Water Quality, (801) 536-4300, or 24 hour answering service (801) 536-4123.
2. The following occurrences of noncompliance shall be reported by telephone (801) 536-4123 as soon as possible but no later than 24 hours from the time the permittee becomes aware of the circumstances:
 - a. Any noncompliance which may endanger health or the environment;
 - b. Any unanticipated bypass which exceeds any effluent limitation in the Permit (See *Part IV.G, Bypass of Treatment Facilities.*);
 - c. Any upset which exceeds any effluent limitation in the permit (See *Part IV.H, Upset Conditions.*); or,
 - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit.

3. A written submission shall also be provided within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
 - a. A description of the noncompliance and its cause;
 - b. The period of noncompliance, including exact dates and times;
 - c. The estimated time noncompliance is expected to continue if it has not been corrected; and,
 - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
 - e. Steps taken, if any, to mitigate the adverse impacts on the environment and human health during the noncompliance period.
4. The Executive Secretary may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the Division of Water Quality, (801) 536-4300.
5. Reports shall be submitted to the addresses in *Part III.D, Reporting of Monitoring Results*.
- J. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for *Part III.D* are submitted. The reports shall contain the information listed in *Part III.I.3*.
- K. Inspection and Entry. The permittee shall allow the Executive Secretary, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the *Act*, any substances or parameters at any location

IV. COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- B. Penalties for Violations of Permit Conditions. The Act provides that any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions of the Act is subject to a fine not exceeding \$25,000 per day of violation; Any person convicted under UCA 19-5-115(2) a second time shall be punished by a fine not exceeding \$50,000 per day. Except as provided at Part IV.G, *Bypass of Treatment Facilities* and Part IV.H, *Upset Conditions*, nothing in this permit shall be construed to relieve the permittee of the civil or criminal penalties for noncompliance.
- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- F. Removed Substances. Collected screening, grit, solids, sludges, or other pollutants removed in the course of treatment shall be buried or disposed of in such a manner so as to prevent any pollutant from entering any waters of the state or creating a health hazard. Sludge/digester supernatant and filter backwash shall not directly enter either the final effluent or waters of the state by any other direct route.
- G. Bypass of Treatment Facilities.

1. Bypass Not Exceeding Limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to paragraph 2. and 3. below.
2. Prohibition of Bypass.
 - a. Bypass is prohibited, and the Executive Secretary may taken enforcement action against a permittee for bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of human life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and
 - (3) The permittee submitted notices as required under paragraph G.3 (below).
 - b. The executive Secretary may approve an anticipated bypass, after considering its adverse effects, if the Executive Secretary determines that it will meet the three conditions listed in paragraphs G.2a. (1), (2) and (3) (above).
3. Notice.
 - a. Anticipated bypass. Except as provided above in paragraph G.2. and below in paragraph G. 3.b., if the permittee knows in advance of the need for a bypass, it shall submit prior notice, at least ninety days before the date of bypass. The prior notice shall include the following unless otherwise waived by the Executive Secretary:
 - (1) Evaluation of alternative to bypass, including cost-benefit analysis containing an assessment of anticipated resource damages;
 - (2) A specific bypass plan describing the work to be performed including scheduled dates and times. The permittee must notify the Executive Secretary in advance of any changes to the bypass schedule;

- (3) Description of specific measures to be taken to minimize environmental and public health impacts;
 - (4) A notification plan sufficient to alert all downstream users, the public and others reasonably expected to be impacted by the bypass;
 - (5) A water quality assessment plan to include sufficient monitoring of the receiving water before, during and following the bypass to enable evaluation of public health risks and environmental impacts; and
 - (6) Any additional information requested by the Executive Secretary.
- b. Emergency Bypass. Where ninety days advance notice is not possible, the permittee must notify the Executive Secretary, and the Director of the Department of Natural Resources, as soon as it becomes aware of the need to bypass and provide to the Executive Secretary the information in paragraph *G.3.a.(1)* through *(6)* (above) to the extent practicable.
 - c. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass to the Executive Secretary as required under *Part III.I. Twenty Four Hour Reporting*. The permittee shall also immediately notify the Director of the Department of Natural Resources, the public and downstream users and shall implement measures to minimize impacts to public health and environment to the extent practicable.

H. Upset Conditions.

- 1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. (below) are met. Executive Secretary's administrative determination regarding a claim of upset cannot be judiciously challenged by the permittee until such time as an action is initiated for noncompliance.
- 2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
 - b. The permitted facility was at the time being properly operated;
 - c. The permittee submitted notice of the upset as required under *Part III.I, Twenty-four Hour Notice of Noncompliance Reporting*; and,

- d. The permittee complied with any remedial measures required under *Part IV.D, Duty to Mitigate*.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.
- I. Toxic Pollutants. The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of *The Water Quality Act of 1987* for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
- J. Changes in Discharge of Toxic Substances. Notification shall be provided to the Executive Secretary as soon as the permittee knows of, or has reason to believe:
 1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. One hundred micrograms per liter (100 ug/L);
 - b. Two hundred micrograms per liter (200 ug/L) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/L) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/L) for antimony;
 - c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(7)* or (10); or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
 2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
 - a. Five hundred micrograms per liter (500 ug/L);
 - b. One milligram per liter (1 mg/L) for antimony;

- c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with *UAC R317-8-3.4(9)*; or,
 - d. The level established by the Executive Secretary in accordance with *UAC R317-8-4.2(6)*.
- K. Industrial Pretreatment. Any wastewaters discharged to the sanitary sewer, either as a direct discharge or as a hauled waste, are subject to Federal, State and local pretreatment regulations. Pursuant to Section 307 of *The Water Quality Act of 1987*, the permittee shall comply with all applicable federal General Pretreatment Regulations promulgated at *40 CFR 403*, the State Pretreatment Requirements at *UAC R317-8-8*, and any specific local discharge limitations developed by the Publicly Owned Treatment Works (POTW) accepting the wastewaters.

In addition, in accordance with *40 CFR 403.12(p)(1)*, the permittee must notify the POTW, the EPA Regional Waste Management Director, and the State hazardous waste authorities, in writing, if they discharge any substance into a POTW which if otherwise disposed of would be considered a hazardous waste under *40 CFR 261*. This notification must include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous or batch).

V. GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Executive Secretary as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit. In addition, if there are any planned substantial changes to the permittee's existing sludge facilities or their manner of operation or to current sludge management practices of storage and disposal, the permittee shall give notice to the Executive Secretary of any planned changes at least 30 days prior to their implementation.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Executive Secretary of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Duty to Reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. The application shall be submitted at least 180 days before the expiration date of this permit.
- E. Duty to Provide Information. The permittee shall furnish to the Executive Secretary, within a reasonable time, any information which the Executive Secretary may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Executive Secretary, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Executive Secretary, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Executive Secretary shall be signed and certified.
 - 1. All permit applications shall be signed by either a principal executive officer or ranking elected official

2. All reports required by the permit and other information requested by the Executive Secretary shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. The authorization is made in writing by a person described above and submitted to the Executive Secretary, and,
 - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
 3. Changes to authorization. If an authorization under paragraph *G.2* (above) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph *G.2* (above) must be submitted to the Executive Secretary prior to or together with any reports, information, or applications to be signed by an authorized representative.
 4. Certification. Any person signing a document under this section shall make the following certification:
 - (1) "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
- H. Penalties for Falsification of Reports. The *Act* provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000.00 per violation, or by imprisonment for not more than six months per violation, or by both.

- I. Availability of Reports. Except for data determined to be confidential under *UAC R317-8-3.2*, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the office of Executive Secretary. As required by the *Act*, permit applications, permits and effluent data shall not be considered confidential
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the permittee of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under the *Act*.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provisions of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Executive Secretary at least 20 days in advance of the proposed transfer date;
 2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
 3. The Executive Secretary does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2 above.
- N. State Laws. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation under authority preserved by *UCA 19-5-117*.
- O. Water Quality-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations and compliance schedule, if necessary, if one or more of the following events occurs:

1. Water Quality Standards for the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
 2. A final wasteload allocation is developed and approved by the State and/or EPA for incorporation in this permit.
 3. A revision to the current Water Quality Management Plan is approved and adopted which calls for different effluent limitations than contained in this permit.
- P. Toxicity Limitation-Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity (WET) testing, a WET limitation, a compliance schedule, a compliance date, additional or modified numerical limitations, or any other conditions related to the control of toxicants if toxicity is detected during the life of this permit.

VI. DEFINITIONS

1. The "30-day and monthly average" is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month whichever is applicable. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
2. The "7-day and weekly average" is the arithmetic average of all samples collected during a consecutive 7-day period or calendar week whichever is applicable. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, beginning on Sunday and ending on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.
3. "Active mining areas" means the area, on or beneath land, used or disturbed in activity related to the extraction, removal, or recovery of coal from its natural deposits. This term excludes coal preparation plants, coal preparation plan associated areas and post-mining areas.
4. "Daily Maximum" ("Daily Max.") is the maximum value allowable in any single sample or instantaneous measurement.
5. "DOGM" refers to the Division of Oil Gas and Mining in the State of Utah Department of Natural Resources.
6. "DWQ" refers to the Division of Water Quality.
7. "Composite samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the composite sample period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
 - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
 - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;

- c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
 - d. Continuous collection of sample, with sample collection rate proportional to flow rate.
- 8. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
 - 9. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
 - 10. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - 11. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
 - 12. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - 13. "Executive Secretary" means Executive Secretary of the Utah Water Quality Board.
 - 14. "EPA" means the United States Environmental Protection Agency.
 - 15. "Act" means the "*Utah Water Quality Act*".
 - 16. "Best Management Practices" ("*BMP's*") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the State. *BMP's* also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
 - 17. "*CWA*" means *The Federal Water Pollution Control Act*, as amended, by *The Clean Water Act of 1987*.

18. "Flow-weighted composite sample" means a composite sample consisting of a mixture of aliquots collected at a constant time interval, where the volume of each aliquot is proportional to the flow rate of the discharge.
19. "Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of storm water except discharges pursuant to a *UPDES* permit (other than the *UPDES* permit for discharges from the municipal separate storm sewer) and discharges from fire fighting activities, fire hydrant flushing, potable water sources including waterline flushing, uncontaminated ground water (including dewatering ground water infiltration), foundation or footing drains where flows are not contaminated with process materials such as solvents, springs, riparian habitats, wetlands, irrigation water, exterior building wash down where there are no chemical or abrasive additives, pavement wash water where spills or leaks of toxic or hazardous materials have not occurred and where detergents are not used, and air conditioning condensate.
20. "Point Source" means any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharges. This term does not include return flows from irrigated agriculture or agriculture storm water runoff.
21. "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as runoff.
22. "Section 313 water priority chemical" means a chemical or chemical categories which:
 - a. Are listed at *40 CFR 372.65* pursuant to *Section 313* of *Title III* of the *Emergency Planning and Community Right-to-Know Act (EPCRA)* (also known as *Title III* of the *Superfund Amendments and Reauthorization Act (SARA)* of 1986);
 - b. Are present at or above threshold levels at a facility subject to *EPCRA*, *Section 313* reporting requirements, and
 - c. Meet at least one of the following criteria:
 - (1) Are listed in *Appendix D* of *40 CFR 122* on either *Table II* (organic priority pollutants), *Table III* (certain metals, cyanides, and phenols) or *Table IV* (certain toxic pollutants and hazardous substances);
 - (2) Are listed as a hazardous substance pursuant to *Section 311(b)(2)(A)* of the *CWA* at *40 CFR 116.4*; or

- (3) Are pollutants for which EPA has published acute or chronic toxicity criteria.
23. "Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under *Section 101(14)* of *CERCLA*; any chemical the facility is required to report pursuant to *EPCRA Section 313*; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.
24. "Significant spills" includes, but is not limited to: releases of oil or hazardous substances in excess of reportable quantities under *Section 311* of the *Clean Water Act* (see *40 CFR 110.10* and *40 CFR 117.21*) or *Section 102* of *CERCLA* (see *40 CFR 302.4*).
25. "SMCRA" refers to Surface Mining Control and Reclamation Act of 1977.
26. "Storm water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
27. "Time-weighted composite" means a composite sample consisting of a mixture of equal volume aliquots collected at a constant time interval.
28. "Waste pile" means any non-containerized accumulation of solid, non-flowing waste that is used for treatment or storage.
29. "10-year, 24-hour precipitation event" means the maximum 24-hour precipitation event with a probable reoccurrence interval of once in 10 years. This information is available in *Weather Bureau Technical Paper No. 40*, May 1961 and *NOAA Atlas 2*, 1973 for the 11 Western States, and may be obtained from the National Climatic Center of the Environmental Data Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.
30. "Acute toxicity" occurs when 50 percent or more mortality is observed for either test species at any effluent concentration (lethal concentration or "LC₅₀".)